



## A NEW LEGAL LANDSCAPE FOR PLANNING AND ZONING: USING FORM-BASED CODES TO PROMOTE NEW URBANISM AND SUSTAINABILITY

by H. William Freeman\*

Early in this century, the zoning of property was introduced as a method of separating uses and protecting residential areas both from congestion and from the disturbance caused by industrial and commercial uses. Until ten years ago, there were few alternatives to conventional zoning. Now the primary alternatives are Form-Based Codes. Form-Based Codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. Today, there are more than 170 communities nationwide that have adopted these codes. In Michigan, at least five communities have adopted a Form-Based Code and another twenty are working on or considering it.

### Moving Away from the Urban Core

The history of real estate development since the end of World War II has been evidenced by the movement away from the urban core. Particularly in Michigan, where the automobile was the primary mode of transportation for all citizens, freeways were built everywhere and were designed to take city residents everywhere. As a result, many urban centers lost a significant portion of their population to areas outside of the downtown. This ultimately had a negative impact on the stability of urban areas, as there was an imbalance created between the resources committed to the downtown versus those committed to the suburbs. This caused the decline of urban areas over the course of the last half of the 20<sup>th</sup> century.

Late in the 20<sup>th</sup> century, there was a movement in some cities to recreate their downtowns, and to revitalize the vibrant centers that existed before the exodus to suburbia. This concept met with mixed success, as residents were still hesitant to occupy the urban core, since many amenities were often lacking and everyday life was more of a challenge. There were exceptions, in those cities which have always had a strong residential attraction, such as New York, Chicago and San Francisco. There were also cities that managed to make their downtowns attractive to residents, particularly young residents now known as the “creative class,”<sup>1</sup> such as Portland, Denver and Austin. In Michigan, this occurred to a lesser extent in Ann Arbor, where the attraction to young residents was buoyed by the University of Michigan. Despite these exceptions, older industrial cities like Detroit and Cleveland were unable to create a true residential core, despite the introduction of attractions in the downtown area such as stadiums, museums and theaters.

During the 1990s, however, a group of visionaries expanded on a concept which had in the early 1980s resulted in the creation of Seaside, a new urban community in the Florida panhandle. Seaside succeeded financially and was touted in the media as an example of a “traditional neighborhood.” Seaside defined the concept of developing a small town, with all the components

<sup>1</sup> The concept was first discussed by Richard Florida in his book, *The Flight of the Creative Class: The New Global Competition for Talent*, Harper Collins Publishers, New York (2005).

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of small town life, as an attractive alternative to the American city, which had been in decline throughout the prior decades.<sup>2</sup> The planners of Seaside, Andres Duany and Elizabeth Plater-Zyberk, along with other leading planners, such as Peter Calthorpe, Bob Gibbs, Dan Solomon, Stephanos Polyzoides, Elizabeth Moule and Geoffrey Ferrell, with a number of other participants, founded the Congress for the New Urbanism in 1993. From this point forward, there was an increasingly concentrated effort on the part of many planners to promote New Urbanism as a model for new development.

### What is New Urbanism?

The Congress for the New Urbanism describes the focus of "New Urbanism" to be "the restructuring of public policy and development practices to support the following principles: neighborhoods should be diverse in use and population; communities should be designed for the pedestrian and transit as well as the car; cities and towns should be shaped by physically defined and universally accessible public spaces and community institutions; urban places should be framed by architecture and landscape design that celebrate local history, climate, ecology and building practice."<sup>3</sup> New Urbanism attempts to manage growth in a manner that raises the quality of life for the residents of a community. There are ten main principles to be applied in New Urbanism, which are: walkability, connectivity, mixed-use & diversity, mixed housing, quality architecture & urban design, traditional neighborhood structure, increased density, smart transportation, sustainability and quality of life.<sup>4</sup> Many of these principles are otherwise utilized as part of general planning concepts. However, it is important to note that New Urbanism in theory may not be appropriate in all geographic areas, for a number of reasons such as the local economy, demographics and/or employment mix.

In the early years, a number of conventional planners and developers viewed the New Urbanism as an idyllic movement, which could be successful in resort areas such as Seaside or other special places where the amenities lent themselves to the promotion of new urban principles, but not in conventional suburban areas. For instance, Celebration was developed by Disney as a new urban community outside of Disney World in the Orlando area. Many people thought that Celebration could not have survived without the artificial support of Disney to keep the commercial area viable in the

early years. Yet Celebration has nonetheless become a model traditional neighborhood. The lack of new urban communities in states like Michigan and other parts of the Midwest, however, made such areas less amenable to the concepts of the traditional neighborhood. In addition, many proponents of the New Urbanism were hesitant to endorse any variation from the strict components of the charter. Even though there was a general interest in traditional neighborhood planning concepts which were incorporated into conventional development, New Urbanism planners were more interested in an all or nothing approach. As a result the initial growth of the New Urbanism was disconnected. The principles of New Urbanism, however, when applied to existing urban areas, still resulted in an increase of persons living in the downtown areas during the 1990s. Now, in the 21<sup>st</sup> century, many of the traditional neighborhood principles have been applied on a much broader scale, and have been combined with traditional principles to have a huge effect upon planning philosophy.

### Sustainability

Chief among the areas that have been affected by the New Urbanism is the sustainability of communities. In addition to planning concepts, sustainability has been introduced as a method of development that will preserve our environment into the future. Sustainable development was defined in the 1987 report of the World Commission on Environment and Development, known as the "Brundtland definition," as follows: sustainability means "meeting the needs of the present without compromising the ability of future generations to meet their own needs."<sup>5</sup> The US National Environmental Policy Act of 1969 declared as its goal a national policy to "create and maintain conditions under which humans and nature can exist in productive harmony and fulfill the social, economic and other requirements of present and future generations of Americans."<sup>6</sup> Theodore Roosevelt, who in retrospect was well before his time in the promotion of sustainable issues and the environment, was quoted as saying: "Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or to rob, by wasteful use, the generations that come after us. . . . The object of government is the welfare of the people."<sup>7</sup>

2 [www.seasidefl.com](http://www.seasidefl.com)  
3 [www.cnu.org/charter](http://www.cnu.org/charter)  
4 [www.cnu.org](http://www.cnu.org)

5 [www.un-documents.net/ocf-02](http://www.un-documents.net/ocf-02)

6 42 USC § 4331, NEPA Section 101(a).

7 The "New Nationalism" speech, Osawatomie, Kansas, August 31, 1910.

Like the new urbanism movement, the green building movement has become increasingly popular during the late 20<sup>th</sup> century and early 21<sup>st</sup> century. These two related movements grew independently during their early expansion, despite the fact that they had a number of very similar objectives. The concern of new urbanism with walkability and traditional neighborhood design, which can conserve resources through planning principles, corresponds with the goal of sustainability to conserve natural resources. This conservation is a necessary byproduct of less driving and more walking, green building and transit-oriented development. Until very recently, green building was, like new urbanism in its early stages, more of a theoretical exercise, more geared towards specific buildings and the ability of their planners and builders to make those buildings LEED certified.<sup>8</sup> Only recently have the proponents of sustainability and new urbanism realized that as the two concepts work together, sustainability can apply to communities, not just individual buildings, and New Urbanism can serve as a model for all communities, not just specific traditional neighborhood outposts.

The ultimate result of the combination of New Urbanism and sustainability has been the development of a third party review standard, which is referred to as Leadership, Energy and Environmental Design for Neighborhood Design, commonly known as LEED ND. LEED ND, as a new certification program, will certify certain real estate projects as achieving standards for New Urbanism, sustainability and smart growth. Properties are often classified for purposes of development as a greenfield, brownfield or greyfield. A greenfield property is one that is currently vacant and yet underdeveloped. A brownfield property is typically a former industrial property that is either vacant or obsolescent. Brownfield development is a very popular method of reusing existing sites, particularly due to the tax credits available. Greyfield properties are more commonly malls in inner suburban areas that have become obsolete. The purpose of distinguishing these properties relates to the prioritization of developable sites. The policies of both New Urbanism and sustainability prefer redevelopment to the development of greenfield sites.

Based on the principles of traditional neighborhood development and sustainability, the planning of communities has become much more than finding a way to maximize the use of land. Planning is now finding a way to create a community that is attractive

in its traditional nature and sustainable in its ecological nature. Unfortunately, during the time that it has taken to reach these planning principles, the state of zoning law has not progressed in a manner that can accommodate such development.

## History of Zoning

### A. Traditional Euclidian Zoning

The concept of zoning was first created due to an overcrowding in cities and the intrusion of industry into residential and retail areas. In Michigan, the initial legislation related to zoning was the City and Village Zoning Act.<sup>9</sup> As with most state codes, the City and Village Zoning Act traces its origin to similar roots as the Standard State Zoning Enabling Act (SZE), which was subsequently published by the US Department of Commerce in 1924. Historically, the aspect of that legislation most cited is the portion that has to do with the separation of uses. Thus, since that time the emphasis in zoning has been placed upon the creation of individual use districts such as Single-Family, Multi-Family, Commercial, Industrial and Agricultural. At about the same time as the introduction of SZE, in the seminal zoning case of *Village of Euclid, Ohio vs. Ambler Realty Co.*,<sup>10</sup> the United States Supreme Court found that this conventional method of zoning was constitutional. The Court in *Euclid* determined that: "The segregation of industries, commercial pursuits, and dwellings into particular districts in a city, when exercised reasonably, may bear a rational relation to the health, morals, safety and general welfare of the community."<sup>11</sup> As a result, the Court opined that there is a valid governmental interest in maintaining the character of and regulating land use. This decision is the basis for what is commonly known as Euclidian Zoning, which has been prevalent in communities from 1926 to the present.

However, both the SZE and the decision in *Euclid* involved more than the regulation of uses and the assignment of those uses into corresponding districts. The SZE states in Section 1, as follows:

Grant of Power. For the purpose of promoting health, safety, morals, and the general welfare of the community, the legislative body of cities and incorporated villages is hereby empowered to regulate and restrict the height,

8 LEED stands for Leadership in Energy and Environmental Design, and is an internationally recognized green building certification system developed by the US Green Building Council (USGBC).

9 Public Act 207 of 1921.

10 272 US 365(1926).

11 *Id.* at 392.

number of stories, and size of buildings and other structures, the percentage of the lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, and other purposes.<sup>12</sup>

This legislation clearly seeks to enable something more than the conventional zoning ordinance of today. Furthermore, the decision in *Euclid*, while preoccupied rather specifically with the separation of uses stipulated in the 1922 Village of Euclid Zoning Ordinance, in the end further looked to the comprehensive nature of that ordinance in finalizing its decision. The Court stated: "Therefore, it is enough for us to determine, as we do, that the ordinance in its general scope and dominant features, so far as its provisions are here involved, is a valid exercise of authority . . . ." <sup>13</sup> As it turns out, the Euclid ordinance was somewhat comprehensive in nature too, including separate categories of zones, and corresponding restrictions, regarding both building heights and yard areas.

The United States and the State of Michigan are in a very different economic and environmental state today than they were almost 90 years ago. No longer is the primary concern the intrusion of industrial development into residential neighborhoods. Rather, the focus in the planning community is on the uncontrolled sprawl and the use-segregated suburbs where it is not possible to walk to a local store or school. Communities have attempted to resolve these issues with conventional zoning through techniques such as Planned Unit Developments (PUD), Planned Residential Developments (PRD) or mixed use condominium projects. These methods enable areas of land to be zoned for several different uses. However, instead of becoming mixed-use, the areas would become multi-use, where the various uses would still be separate and distinct, just within a larger area. Therefore, there would be many different uses in one area but many of the uses would not be integrated. Despite these limitations, these new developments have helped to begin a movement to change the way zoning policies separate the use of land and development.

<sup>12</sup> Department of Commerce, Herbert Hoover, Secretary. (1926). A Standard State Zoning Enabling Act. Washington, DC: Washington Government Printing Office.

<sup>13</sup> *Euclid*, 272 US at 397.

## B. Form-Based Code Zoning

Form-Based Code zoning is a land development regulatory tool based on place and mixture of use. According to the Form-Based Code Institute, this new form of zoning is "a method of regulating development to achieve a specific urban form."<sup>14</sup> Form-Based Codes allow for a mixture of land uses based upon building form and they are more focused on what is desired by the population and less on what is forbidden in the area. The zoning can therefore achieve more predictable results, which in turn help to manage growth, promote character and flexibility and reduce development time.

Form-Based Codes include five elements:

1. **A Regulating Plan.** A plan or map of the area designating the locations where different building form standards apply based on community intentions regarding the physical character. It is similar to a zoning map except that it provides many more specific details about the space.
2. **Public Space Standards.** Specifications for the elements within the public realm, such as sidewalks, street parking and the landscaping on the street.
3. **Building Form Standards.** Regulations and policies controlling the configuration, features and functions of buildings that define and shape the public realm.
4. **Administration.** A very specific and defined application and project review process.
5. **Definitions.** A glossary of technical terms to ensure the correct use of the Regulating Plan's implementation.<sup>15</sup>

A Form-Based Code also includes an "Organizing Principle," which divides the area by principles such as building type, frontage-based standard, street characteristics, urban-planning model or local landscapes. These principles help to set a standard that requires that a new development fit into the existing community and connect the private and public realms as one. A distinct feature of a Form-Based Code is that, although the buildings are aesthetically integrated, they

<sup>14</sup> [www.formbasedcodes.org/definition](http://www.formbasedcodes.org/definition)

<sup>15</sup> [www.formbasedcodes.org/definition](http://www.formbasedcodes.org/definition)



allow for a mixture of uses in the same development. These codes are being used to preserve and enhance traditional character, to change an already developed area and also for new projects. The key is to have the use of the buildings, along with the characteristics of the building and the street, to all be incorporated and working together.

### C. Differences between Traditional Euclidian Zoning and Form-Based Code Zoning

In Euclidian Zoning, the land is divided based on use, while a Form-Based Code divides land by the characteristics and distinctions of certain areas. By avoiding the division of land by use, Form-Based Codes enable a mixture of users to construct both public and private developments in the area. In doing this, each individual building can be used to shape the streetscape and embrace the diversity of the area. This ensures more of a neighborhood feel, as opposed to Euclidian Zoning, where the designation of each individual lot for a particular use can create a look of uniformity throughout designated areas. Communities have begun to realize that the old method of zoning has left their surroundings bleak and often undesirable. Thus, many communities are now looking to Form-Based Codes as a way to revitalize land development.

The Form-Based Code Institute has developed a list of eight advantages to using Form-Based Code zoning over traditional zoning. First, Form-Based Codes allow a community to state what they *do want* out of their developments rather than what they *do not want*, which produces a more predictable outcome. Second, the Form-Based Code encourages public participation and allows citizens to see what is going to be developed. Third, the development can be regulated on an individual scale of each building, thereby promoting different developments for each individual property and avoiding the need for large land assemblies. Fourth, Form-Based Code zoning allows for a more diverse community in terms of architecture, materials, uses and ownership, because of the independent nature of the development. Fifth, Form-Based Code zoning can fit well within an existing neighborhood and the design can be used to promote infill development compatible with surrounding structures. Sixth, the documents in Form-Based Code zoning are easier to read, more concise and organized in a more efficient way, which makes it easier to determine if compliance has been achieved. Seventh, Form-Based Codes are easier to apply consistently and require less oversight than conventional design guidelines, which are much more subjective, therefore saving both time and

money for review and enforcement. Finally, Form-Based Codes are also easier to enforce because of the public good the codes are attempting to achieve and the desire of participants to shape a high quality public realm.<sup>16</sup>

Today most Form-Based Codes are developed and customized by local governments rather than private developers. The regulation of Form-Based Codes is based on the streetscape and how the buildings that line the street help to define it. It is important for the implementation of consistent regulations throughout the area to ensure proper building placement and site orientation. However, the regulations of Form-Based Codes do not disregard use all together. The code is designed to allow the building uses to be flexible and to allow the area surrounding it to determine the building's use. Due to the importance of the streetscape in the Form-Based Code, the building placement and site orientation must be regulated. For instance, in a downtown area there would be a front line to which the building must be built, while in a residential area there would be a specific set back from the front line. There are also regulations regarding what elements may be used in the design of the buildings, streets, sidewalks, parking, landscaping and public spaces. Because Form-Based Codes are relatively new, the manner in which these regulations are enabled, written and then administered will be more closely scrutinized. Form-Based Codes are certainly not a solution to all of the problems arising out of traditional zoning. The drafting of Form-Based Codes can cost over twice as much as a traditional zoning plan. They can also be seen as restrictions on creativity by certain developers and designers. And, there may be limitations to the implementation of Form-Based Codes because they may not specifically be allowed by the Michigan Zoning Enabling Act, which is discussed in more detail below. Nevertheless, this new method of planning will be an important tool in the development of traditional neighborhood and sustainable communities.

### D. Legal Basis of Form-Based Codes

To be legally defensible, planning regulations must be developed for the purpose of benefiting the public health, safety, and welfare, as established by *Euclid*. Therefore, Form-Based Codes will have to be justified both by conventional public benefits, such as alleviating traffic congestion and encouraging the orderly and economic development of cities and by other previously unrecognized benefits to the public welfare, such as encouraging healthy pedestrian lifestyles, protecting air and water quality and conserving resources (by

<sup>16</sup> [www.formbasedcodes.org/definition](http://www.formbasedcodes.org/definition)

providing transportation alternatives to the automobile), supporting transit viability with higher densities, and reducing impervious surfaces with smaller parking lots and multi-story buildings.

There were, at one time, several statutes in Michigan related to zoning, all of which had been based upon the SZA: The City and Village Zoning Act mentioned above,<sup>17</sup> The County Zoning Act,<sup>18</sup> and The Township Zoning Act.<sup>19</sup> These were all repealed and concurrently replaced by the singular Michigan Zoning Enabling Act of 2006,<sup>20</sup> which also bears a noticeable resemblance to SZA. This statute, although it does not address Form-Based Codes specifically, provides a framework under which the adoption of Form-Based Codes can be implemented. Section 125.3201(4) of Zoning Enabling Act reads: "A local unit of government may adopt land development regulations under the zoning ordinance designating or limiting the location, height, bulk, number of stories, uses, and size of dwellings, buildings, and structures that may be erected or altered...."<sup>21</sup> This language is certainly broad enough to support the adoption of a Form-Based Code in Michigan.

Additionally, there is considerable precedent in Michigan and across the country for the institution of zoning stipulations that are not inherently limited by the Euclidian Zoning model. The PUDs mentioned above have included various developments, such as clustered housing, common open space and recreational facilities, the integration of mixed land uses, and/or higher than conventional residential densities. During this period of time, however, state zoning enabling legislation has not always enabled these PUDs directly. Nevertheless, despite the lack of clear authority from state legislatures, local governments throughout the country have adopted PUD-oriented amendments to their Zoning Ordinances and approved PUD projects on their own. Additionally, most of the early Traditional Neighborhood Developments (TNDs) were PUDs and, indeed, Duany Plater-Zyberk & Company (planners of Seaside and authors of the SmartCode) advocated the use of PUDs for TNDs and developed their first Form-Based Codes for PUDs.

There are three methods by which a community can replace its existing Zoning Ordinance with a Form-Based Code. The community can implement a new Form-Based Code, a hybrid code (a hybrid being a Form-Based Code

that incorporates features of a conventional Zoning Ordinance) or an optional overlay code, which leaves the existing Zoning Ordinance in force, but provides various incentives encouraging developers to follow a Form-Based Code instead. If the Form-Based Code is to be a mandatory code, one that replaces either the Zoning Ordinance or both the Master Plan and the Zoning Ordinance, then the steps needed to render the code legally defensible are rather straightforward. The municipality will need to update or substantially amend its Master Plan to reflect its new vision for the community. Once that vision has been agreed upon, a careful study of objective market and environmental data, as well as existing and proposed facilities, will need to be undertaken in order to identify and justify the appropriate locations for future development. Subsequently, the Form-Based Code itself can be written in a manner consistent with this updated or amended plan. Because the Zoning Ordinance (the Form-Based Code in this instance) will have been based upon a plan, it will meet the requirements of Section 125.3203(1) of the Michigan Zoning Enabling Act of 2006. In addition, the locations of allowable development will not have been determined in an arbitrary manner, and the new Form-Based Code can be legally defended.

Also, once a resulting mandatory Form-Based Code has taken effect, the following must be true: 1) that some profitable use of every parcel remains; 2) that the action has not reduced the value of any particular parcel by more than 10-30%, depending on the circumstances and political environment; 3) that similarly situated parcels are regulated in the same manner and thus not in an arbitrary or capricious fashion; 4) that there is benefit to the public good and particularly not to any specific private entity or individual; and 5) that the Form-Based Code does not result in exclusionary zoning. Together, these should help ensure a mandatory Form-Based Code that survives judicial scrutiny, assuming it complies with other local, state and federal laws and regulations. Because a hybrid code also includes features of a mandatory Form-Based Code, except that it also includes features of a conventional Zoning Ordinance, the same steps will need to be followed to insure its enforceability.

If the new Form-Based Code is to instead be an overlay code, the process for rendering it legally defensible will be more complex. Proponents of overlay codes generally contend that such a code cannot be legally challenged in court because it is not mandatory, due to the fact that developers may utilize the existing underlying code. Therefore, the ability to choose places no new restrictions on private property. Such an analysis implies

17 The City and Village Zoning Act, Act 207 of 1921.

18 The County Zoning Act, Act 183 of 1943.

19 The Township Zoning Act, Act 184 of 1943.

20 Michigan Zoning Enabling Act of 2006, P.A. 110 of 2006 (MCL 125.3101 *et seq.*).

21 MCL 125.3201(4).

competing visions for the community, one conventional and suburban, the other more new and urban. As a result, in order to maintain internal consistency within the Master Plan itself and then, subsequently, between that Master Plan and both the conventional Zoning Ordinance and the proposed overlay code, there needs to be one vision expressed within the community's Master Plan. One possibility is a vision that endorses the status quo (conventional suburban development) while also having vibrant, mixed-use, and transit viable town centers situated in appropriate locations. Another goal expressed within such a Master Plan could, while embracing suburban development for its low-density characteristics, also include the goal of preserving open space in the form of wholly undeveloped land. This would support a Purchase of Development Rights Program (PDR)<sup>22</sup> or substantial density bonuses (bonuses for setting aside open space within the development and/or elsewhere within the region) in association with the new mixed-use town centers to be developed under the overlay Form-Based Code. These types of benefits to developers can encourage more new urban and sustainable development in communities. Such density bonuses could also be designed to have the additional benefit of encouraging the actual use of the optional Form-Based Code, where it is feared that market forces alone are generally inadequate to promote that option.

Finally, in order for an overlay code to avoid legal challenges, the municipality must also be careful that it has not been arbitrarily applied. Thus, in addition to a more conventional Master Plan Land Use Map, there will also need to be the objective designation of Receiving Zones. This could be completed as an overlay to the Land Use Map. Receiving Zones are the locations or areas determined as appropriate, based on GIS information, market data, and various existing and proposed facilities, for the sort of new higher-density, mixed-use developments that the Form-Based Code is intended, in part, to regulate.

### Implementation of Form-Based Codes in Michigan

Form-Based Codes are being implemented more frequently as communities are becoming educated with respect to their potential. In Michigan, a number of communities have instituted Form Based Codes. In Birmingham, Michigan, the city created an overlay Form-Based Code for the Triangle District, which is

located east of Woodward and south of Maple. Because it is an overlay, the existing zoning districts still apply and any existing use is permitted to continue. The area is described by the city as a "vibrant, mixed use neighborhood filled with interesting destinations that attract people from across the region, and provide residents with an integrated neighborhood in which to live, work, shop, and recreate."<sup>23</sup> It is further described as a "transitional growth area between the central business district and the residential neighborhoods to the east."<sup>24</sup> This process involved a series of public meetings, followed by public hearings held by the planning board and city commission. A discussion group, which was comprised of representatives of various city boards and commissions, staff, development professionals, and area business owners and residents, served as an intermediary between the planning board and the public. A two-day design charrette was held to develop goals, objectives, concepts and recommendations.

A similar Form-Based Code overlay zoning district was adopted in Genoa Township for a location identified as the Genoa Town Center. This code requires all new developments to follow strict requirements for a more traditional form of development that is more characteristic of a small town. It includes placement requirements and detailed design standards for buildings, streetscapes and public open spaces.<sup>25</sup>

In the town of Fremont, Michigan, northwest of Grand Rapids, the city adopted a new Fremont Hybrid Form-Based Zoning Ordinance in October of 2007, which replaced the previous zoning ordinance in its entirety. The stated intent of the new code is as follows: "Great neighborhoods, main streets and cities do not happen by accident. They should be orchestrated with a physical vision as places that will be enlivened by commercial and civic activities and in turn, supported by the local residents. The Fremont Zoning Ordinance is designed to foster a vibrant city through a lively mix of uses- with shop fronts, cafes, and other commercial uses at the street level, overlooked by canopy shade trees, upper story residences and offices- surrounded by healthy neighborhoods."<sup>26</sup>

The Congress for the New Urbanism has just recently started a Michigan Chapter, CNU-Michigan, Inc., which has as one of its goals the promotion and education

<sup>22</sup> See, e.g., Washtenaw County Purchase of Development Rights Program, [www.ewashtenaw.org/government/departments/planning-environment/planning/farmland](http://www.ewashtenaw.org/government/departments/planning-environment/planning/farmland)

<sup>23</sup> [www.ci.birmingham.mi.us/index.aspx?page=1208](http://www.ci.birmingham.mi.us/index.aspx?page=1208)

<sup>24</sup> [www.ci.birmingham.mi.us/index.aspx?page=1208](http://www.ci.birmingham.mi.us/index.aspx?page=1208)

<sup>25</sup> See Art. 9, [www.genoa.org/government/ordinances/ordinance-zoning](http://www.genoa.org/government/ordinances/ordinance-zoning)

<sup>26</sup> [www.cityoffremont.net/web/planzone.htm](http://www.cityoffremont.net/web/planzone.htm)

with respect to Form-Based Codes. Part of its education effort will be a seminar to be presented at the Michigan Municipal League statewide convention on September 23, 2009, and, in partnership with the Form-Based Code Institute and Michigan Municipal League, the publication of a manual called "Form-Based Codes in 7-Steps: The Michigan Guidebook to Livability." Through the efforts of these groups, Form-Based Codes will become a fixture in planning and zoning as a vehicle to address the needs of new urban and sustainable communities.

The development that has occurred since the end of World War II has been outward and expansive. With a few exceptions, the value of real estate has steadily increased since that time. Since 2005, particularly in

Michigan, this outward growth and increase in value has stopped, and retreated. If the growth and values ever return to previous levels, it will be many years from now. During this time, the focus should be upon recreation of neighborhoods and sustainable growth, which will create a more measured development of real estate, and better communities for the future. Zoning codes that have been adopted during the last sixty years favor the spread of single use development, with minimum lot sizes, building setbacks and other restrictions that separate uses. The built and natural environments of the future, as well as the demographics, require the introduction of zoning reform, and that has made its presence known through the increasing use of Form-Based Codes.